

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:05-cr-18-04

v

HON. JANET T. NEFF

JIMMY SMITH,

Defendant.

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MEMORANDUM OPINION AND ORDER

This matter is before the Court on Defendant's Motion for Modification or Reduction of Sentence Pursuant to 18 U.S.C. §3582(c)(2) (Dkt 225 ). Based on a review of Defendant's motion, the Sentence Modification Report, submissions by defense counsel and counsel for the government, and the original criminal file, the Court has determined that the motion should be denied as follows:

Defendant was sentenced on a Superseding Indictment charging Distribution of an Unspecified Quantity of a Mixture or Substance Containing a Detectable Amount of Cocaine Base (Crack Cocaine) Within 1,000 Feet of a School or Playground in violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C) and 860(a). Defendant was sentenced as a career offender within the meaning of U.S.S.G. § 4B1.1(a). As such, defendant is ineligible for a reduction in sentence.

Accordingly, Defendant's Motion for Modification or Reduction of Sentence (Dkt 225) is DENIED.

Dated: November 16, 2010

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge